

AMENDED IN SENATE APRIL 13, 2009

**SENATE BILL**

**No. 284**

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**Introduced by Senator Cox**

February 24, 2009

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An act to ~~amend Section 602 of the Penal Code, relating to crime~~  
*add Part 8.2 (commencing with Section 7940) to Division 5 of the Labor*  
*Code, relating to employment.*

LEGISLATIVE COUNSEL'S DIGEST

SB 284, as amended, Cox. ~~Trespass.~~*Safety in employment: ski resorts.*

*Existing law specifies the requirements for obtaining a license for and operating a passenger aerial tramway. It also requires the Division of Occupational Safety and Health within the Department of Industrial Relations to conduct inspections of aerial tramways at specified intervals.*

*This bill would require the division to utilize the most current safety standards when inspecting aerial passenger tramways operated at ski resorts.*

*This bill would also require ski resorts to file an annual safety plan with the division, make the safety plan available on demand, report to the division on a quarterly basis any fatalities involving patrons at the resort, and standardize safety signage and equipment padding in use at the resort.*

~~Existing law makes it unlawful for persons to engage in certain acts of trespass and punishes most trespasses by a fine not exceeding \$1,000, imprisonment in a county jail for a period not exceeding 6 months, or by both that fine and imprisonment.~~

~~This bill would make a nonsubstantive change to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Part 8.2 (commencing with Section 7940) is added*  
2     *to Division 5 of the Labor Code, to read:*

3  
4                     *PART 8.2. SKI RESORT SAFETY*  
5

6     7940. (a) A ski resort that operates in California shall do all  
7     of the following:

8         (1) Prepare an annual safety plan that conforms with the  
9         requirements of federal regulations applicable to ski resorts  
10        operating on federal property.

11        (2) File a copy of the annual safety plan with the division, in  
12        addition to any safety plan that is required to be filed with the  
13        United States Forest Service.

14        (3) Make the annual safety plan available to the public at the  
15        ski resort, upon request.

16        (4) Make the annual safety plan available to a division inspector,  
17        upon request.

18        (5) (A) Submit to the division a quarterly report containing the  
19        following information, if known:

20            (i) A description of each incident resulting in a fatality which  
21            occurred on the ski resort property and resulted from a  
22            recreational activity, such as skiing, snowboarding, and sledding,  
23            that the resort is designed to provide.

24            (ii) The age of each person killed in an incident identified in  
25            clause (i), the type of recreational activity involved, the cause of  
26            the fatality, the location at the resort where the incident occurred,  
27            and the name of any facility where medical treatment was provided.  
28        The report shall not identify a deceased person by name or address.

29        (B) The reporting requirements of this paragraph do not apply  
30        to fatalities of employees or contractors of the ski resort and are  
31        not intended to modify or abridge any reporting requirement  
32        regarding a fatality to an employee or contractor.

33        (6) Establish a standardized signage policy used to indicate a  
34        ski area boundary, hazard, or other safety information. Signage  
35        shall be subject to inspection by the division.

1     (7) *Establish a policy for standardized safety padding or other*  
2 *barriers for all lift towers and snowmaking equipment located on*  
3 *or in close proximity to groomed ski runs.*

4     (b) *When inspecting ski resort tramways, the division shall use*  
5 *the most current aerial tramway safety standards.*

6     ~~SECTION 1. Section 602 of the Penal Code is amended to~~  
7 ~~read:~~

8     ~~602. Except as provided in paragraph (2) of subdivision (v),~~  
9 ~~subdivision (x), and Section 602.8, every person who willfully~~  
10 ~~commits a trespass by any of the following acts is guilty of a~~  
11 ~~misdemeanor:~~

12     ~~(a) Cutting down, destroying, or injuring any kind of wood or~~  
13 ~~timber standing or growing upon the lands of another.~~

14     ~~(b) Carrying away any kind of wood or timber lying on those~~  
15 ~~lands.~~

16     ~~(c) Maliciously injuring or severing from the freehold of another~~  
17 ~~anything attached to it, or its produce.~~

18     ~~(d) Digging, taking, or carrying away from any lot situated~~  
19 ~~within the limits of any incorporated city, without the license of~~  
20 ~~the owner or legal occupant, any earth, soil, or stone.~~

21     ~~(e) Digging, taking, or carrying away from land in any city or~~  
22 ~~town laid down on the map or plan of the city, or otherwise~~  
23 ~~recognized or established as a street, alley, avenue, or park, without~~  
24 ~~the license of the proper authorities, any earth, soil, or stone.~~

25     ~~(f) Maliciously tearing down, damaging, mutilating, or~~  
26 ~~destroying any sign, signboard, or notice placed upon, or affixed~~  
27 ~~to, any property belonging to the state, or to any city, county, city~~  
28 ~~and county, town or village, or upon any property of any person,~~  
29 ~~by the state or by an automobile association, which sign, signboard~~  
30 ~~or notice is intended to indicate or designate a road, or a highway,~~  
31 ~~or is intended to direct travelers from one point to another, or~~  
32 ~~relates to fires, fire control, or any other matter involving the~~  
33 ~~protection of the property, or putting up, affixing, fastening,~~  
34 ~~printing, or painting upon any property belonging to the state, or~~  
35 ~~to any city, county, town, or village, or dedicated to the public, or~~  
36 ~~upon any property of any person, without license from the owner,~~  
37 ~~any notice, advertisement, or designation of, or any name for any~~  
38 ~~commodity, whether for sale or otherwise, or any picture, sign, or~~  
39 ~~device intended to call attention to it.~~

~~(g) Entering upon any lands owned by any other person on which oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away any oysters or other shellfish planted, growing, or on any of those lands, whether covered by water or not, without the license of the owner or legal occupant; or damaging, destroying, or removing, or causing to be removed, damaged, or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any of those lands.~~

~~(h) (1) Entering upon lands or buildings owned by any other person without the license of the owner or legal occupant, where signs forbidding trespass are displayed, and whereon cattle, goats, pigs, sheep, fowl, or any other animal is being raised, bred, fed, or held for the purpose of food for human consumption; or injuring, gathering, or carrying away any animal being housed on any of those lands, without the license of the owner or legal occupant; or damaging, destroying, or removing, or causing to be removed, damaged, or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any of those lands.~~

~~(2) In order for there to be a violation of this subdivision, the trespass signs under paragraph (1) must be displayed at intervals not less than three per mile along all exterior boundaries and at all roads and trails entering the land.~~

~~(3) This subdivision shall not be construed to preclude prosecution or punishment under any other provision of law, including, but not limited to, grand theft or any provision that provides for a greater penalty or longer term of imprisonment.~~

~~(i) Willfully opening, tearing down, or otherwise destroying any fence on the enclosed land of another, or opening any gate, bar, or fence of another and willfully leaving it open without the written permission of the owner, or maliciously tearing down, mutilating, or destroying any sign, signboard, or other notice forbidding shooting on private property.~~

~~(j) Building fires upon any lands owned by another where signs forbidding trespass are displayed at intervals not greater than one mile along the exterior boundaries and at all roads and trails entering the lands, without first having obtained written permission from the owner of the lands or the owner's agent, or the person in lawful possession.~~

~~(k) Entering any lands, whether unenclosed or enclosed by fence, for the purpose of injuring any property or property rights~~

1 or with the intention of interfering with, obstructing, or injuring  
2 any lawful business or occupation carried on by the owner of the  
3 land, the owner's agent or by the person in lawful possession.

4 ~~(l) Entering any lands under cultivation or enclosed by fence,~~  
5 ~~belonging to, or occupied by, another, or entering upon uncultivated~~  
6 ~~or unenclosed lands where signs forbidding trespass are displayed~~  
7 ~~at intervals not less than three to the mile along all exterior~~  
8 ~~boundaries and at all roads and trails entering the lands without~~  
9 ~~the written permission of the owner of the land, the owner's agent~~  
10 ~~or of the person in lawful possession, and~~

11 ~~(1) Refusing or failing to leave the lands immediately upon~~  
12 ~~being requested by the owner of the land, the owner's agent or by~~  
13 ~~the person in lawful possession to leave the lands, or~~

14 ~~(2) Tearing down, mutilating, or destroying any sign, signboard,~~  
15 ~~or notice forbidding trespass or hunting on the lands, or~~

16 ~~(3) Removing, injuring, unlocking, or tampering with any lock~~  
17 ~~on any gate on or leading into the lands, or~~

18 ~~(4) Discharging any firearm.~~

19 ~~(m) Entering and occupying real property or structures of any~~  
20 ~~kind without the consent of the owner, the owner's agent, or the~~  
21 ~~person in lawful possession.~~

22 ~~(n) Driving any vehicle, as defined in Section 670 of the Vehicle~~  
23 ~~Code, upon real property belonging to, or lawfully occupied by,~~  
24 ~~another and known not to be open to the general public, without~~  
25 ~~the consent of the owner, the owner's agent, or the person in lawful~~  
26 ~~possession. This subdivision shall not apply to any person described~~  
27 ~~in Section 22350 of the Business and Professions Code who is~~  
28 ~~making a lawful service of process, provided that upon exiting the~~  
29 ~~vehicle, the person proceeds immediately to attempt the service~~  
30 ~~of process, and leaves immediately upon completing the service~~  
31 ~~of process or upon the request of the owner, the owner's agent, or~~  
32 ~~the person in lawful possession.~~

33 ~~(o) Refusing or failing to leave land, real property, or structures~~  
34 ~~belonging to or lawfully occupied by another and not open to the~~  
35 ~~general public, upon being requested to leave by (1) a peace officer~~  
36 ~~at the request of the owner, the owner's agent, or the person in~~  
37 ~~lawful possession, and upon being informed by the peace officer~~  
38 ~~that he or she is acting at the request of the owner, the owner's~~  
39 ~~agent, or the person in lawful possession, or (2) the owner, the~~  
40 ~~owner's agent, or the person in lawful possession. The owner, the~~

owner's agent, or the person in lawful possession shall make a separate request to the peace officer on each occasion when the peace officer's assistance in dealing with a trespass is requested. However, a single request for a peace officer's assistance may be made to cover a limited period of time not to exceed 30 days and identified by specific dates, during which there is a fire hazard or the owner, owner's agent or person in lawful possession is absent from the premises or property. In addition, a single request for a peace officer's assistance may be made for a period not to exceed six months when the premises or property is closed to the public and posted as being closed. However, this subdivision shall not be applicable to persons engaged in lawful labor union activities which are permitted to be carried out on the property by the California Agricultural Labor Relations Act, Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code, or by the National Labor Relations Act. For purposes of this section, land, real property, or structures owned or operated by any housing authority for tenants as defined under Section 34213.5 of the Health and Safety Code constitutes property not open to the general public; however, this subdivision shall not apply to persons on the premises who are engaging in activities protected by the California or United States Constitution, or to persons who are on the premises at the request of a resident or management and who are not loitering or otherwise suspected of violating or actually violating any law or ordinance.

(p) Entering upon any lands declared closed to entry as provided in Section 4256 of the Public Resources Code, if the closed areas shall have been posted with notices declaring the closure, at intervals not greater than one mile along the exterior boundaries or along roads and trails passing through the lands.

(q) Refusing or failing to leave a public building of a public agency during those hours of the day or night when the building is regularly closed to the public upon being requested to do so by a regularly employed guard, watchman, or custodian of the public agency owning or maintaining the building or property, if the surrounding circumstances would indicate to a reasonable person that the person has no apparent lawful business to pursue.

(r) Knowingly skiing in an area or on a ski trail which is closed to the public and which has signs posted indicating the closure.

1     ~~(s) Refusing or failing to leave a hotel or motel, where he or~~  
2 ~~she has obtained accommodations and has refused to pay for those~~  
3 ~~accommodations, upon request of the proprietor or manager, and~~  
4 ~~the occupancy is exempt, pursuant to subdivision (b) of Section~~  
5 ~~1940 of the Civil Code, from Chapter 2 (commencing with Section~~  
6 ~~1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For~~  
7 ~~purposes of this subdivision, occupancy at a hotel or motel for a~~  
8 ~~continuous period of 30 days or less shall, in the absence of a~~  
9 ~~written agreement to the contrary, or other written evidence of a~~  
10 ~~periodic tenancy of indefinite duration, be exempt from Chapter~~  
11 ~~2 (commencing with Section 1940) of Title 5 of Part 4 of Division~~  
12 ~~3 of the Civil Code.~~

13     ~~(t) Entering upon private property, including contiguous land,~~  
14 ~~real property, or structures thereon belonging to the same owner,~~  
15 ~~whether or not generally open to the public, after having been~~  
16 ~~informed by a peace officer at the request of the owner, the owner's~~  
17 ~~agent, or the person in lawful possession, and upon being informed~~  
18 ~~by the peace officer that he or she is acting at the request of the~~  
19 ~~owner, the owner's agent, or the person in lawful possession, that~~  
20 ~~the property is not open to the particular person; or refusing or~~  
21 ~~failing to leave the property upon being asked to leave the property~~  
22 ~~in the manner provided in this subdivision.~~

23     ~~This subdivision shall apply only to a person who has been~~  
24 ~~convicted of a violent felony, as specified in subdivision (c) of~~  
25 ~~Section 667.5, committed upon the particular private property. A~~  
26 ~~single notification or request to the person as set forth above shall~~  
27 ~~be valid and enforceable under this subdivision unless and until~~  
28 ~~rescinded by the owner, the owner's agent, or the person in lawful~~  
29 ~~possession of the property.~~

30     ~~(u) (1) Knowingly entering, by an unauthorized person, upon~~  
31 ~~any airport or passenger vessel terminal operations area if the area~~  
32 ~~has been posted with notices restricting access to authorized~~  
33 ~~personnel only and the postings occur not greater than every 150~~  
34 ~~feet along the exterior boundary, to the extent, in the case of a~~  
35 ~~passenger vessel terminal, as defined in subparagraph (B) of~~  
36 ~~paragraph (3), that the exterior boundary extends shoreside. To~~  
37 ~~the extent that the exterior boundary of a passenger vessel terminal~~  
38 ~~operations area extends waterside, this prohibition shall apply if~~  
39 ~~notices have been posted in a manner consistent with the~~

1 requirements for the shoreside exterior boundary, or in any other  
2 manner approved by the captain of the port.

3 (2) Any person convicted of a violation of paragraph (1) shall  
4 be punished as follows:

5 (A) By a fine not exceeding one hundred dollars (\$100).

6 (B) By imprisonment in the county jail not exceeding six  
7 months, or by a fine not exceeding one thousand dollars (\$1,000);  
8 or both, if the person refuses to leave the airport or passenger vessel  
9 terminal after being requested to leave by a peace officer or  
10 authorized personnel.

11 (C) By imprisonment in the county jail not exceeding six  
12 months, or by a fine not exceeding one thousand dollars (\$1,000);  
13 or both, for a second or subsequent offense.

14 (3) As used in this subdivision the following definitions shall  
15 control:

16 (A) "Airport operations area" means that part of the airport used  
17 by aircraft for landing, taking off, surface maneuvering, loading  
18 and unloading, refueling, parking, or maintenance, where aircraft  
19 support vehicles and facilities exist, and which is not for public  
20 use or public vehicular traffic.

21 (B) "Passenger vessel terminal" means only that portion of a  
22 harbor or port facility, as described in Section 105.105(a)(2) of  
23 Title 33 of the Code of Federal Regulations, with a secured area  
24 that regularly serves scheduled commuter or passenger operations.  
25 For the purposes of this section, "passenger vessel terminal" does  
26 not include any area designated a public access area pursuant to  
27 Section 105.106 of Title 33 of the Code of Federal Regulations.

28 (C) "Authorized personnel" means any person who has a valid  
29 airport identification card issued by the airport operator or has a  
30 valid airline identification card recognized by the airport operator;  
31 or any person not in possession of an airport or airline identification  
32 card who is being escorted for legitimate purposes by a person  
33 with an airport or airline identification card. "Authorized  
34 personnel" also means any person who has a valid port  
35 identification card issued by the harbor operator, or who has a  
36 valid company identification card issued by a commercial maritime  
37 enterprise recognized by the harbor operator, or any other person  
38 who is being escorted for legitimate purposes by a person with a  
39 valid port or qualifying company identification card.



1     ~~(D) “Airport” means any facility whose function is to support~~  
2     ~~commercial aviation.~~

3     ~~(v) (1) Except as permitted by federal law, intentionally~~  
4     ~~avoiding submission to the screening and inspection of one’s~~  
5     ~~person and accessible property in accordance with the procedures~~  
6     ~~being applied to control access when entering or reentering a sterile~~  
7     ~~area of an airport or passenger vessel terminal, as defined in Section~~  
8     ~~171.5.~~

9     ~~(2) A violation of this subdivision that is responsible for the~~  
10    ~~evacuation of an airport terminal or passenger vessel terminal and~~  
11    ~~is responsible in any part for delays or cancellations of scheduled~~  
12    ~~flights or departures is punishable by imprisonment of not more~~  
13    ~~than one year in a county jail if the sterile area is posted with a~~  
14    ~~statement providing reasonable notice that prosecution may result~~  
15    ~~from a trespass described in this subdivision.~~

16    ~~(w) Refusing or failing to leave a battered women’s shelter at~~  
17    ~~any time after being requested to leave by a managing authority~~  
18    ~~of the shelter.~~

19    ~~(1) A person who is convicted of violating this subdivision shall~~  
20    ~~be punished by imprisonment in a county jail for not more than~~  
21    ~~one year.~~

22    ~~(2) The court may order a defendant who is convicted of~~  
23    ~~violating this subdivision to make restitution to a battered woman~~  
24    ~~in an amount equal to the relocation expenses of the battered~~  
25    ~~woman and her children if those expenses are incurred as a result~~  
26    ~~of trespass by the defendant at a battered women’s shelter.~~

27    ~~(x) (1) Knowingly entering or remaining in a neonatal unit,~~  
28    ~~maternity ward, or birthing center located in a hospital or clinic~~  
29    ~~without lawful business to pursue therein, if the area has been~~  
30    ~~posted so as to give reasonable notice restricting access to those~~  
31    ~~with lawful business to pursue therein and the surrounding~~  
32    ~~circumstances would indicate to a reasonable person that he or she~~  
33    ~~has no lawful business to pursue therein. Reasonable notice is that~~  
34    ~~which would give actual notice to a reasonable person, and is~~  
35    ~~posted, at a minimum, at each entrance into the area.~~

36    ~~(2) Any person convicted of a violation of paragraph (1) shall~~  
37    ~~be punished as follows:~~

38    ~~(A) As an infraction, by a fine not exceeding one hundred dollars~~  
39    ~~(\$100).~~

1 ~~(B) By imprisonment in a county jail not exceeding one year,~~  
2 ~~or by a fine not exceeding one thousand dollars (\$1,000), or both,~~  
3 ~~if the person refuses to leave the posted area after being requested~~  
4 ~~to leave by a peace officer or other authorized person.~~

5 ~~(C) By imprisonment in a county jail not exceeding one year,~~  
6 ~~or by a fine not exceeding two thousand dollars (\$2,000), or both,~~  
7 ~~for a second or subsequent offense.~~

8 ~~(D) If probation is granted or the execution or imposition of~~  
9 ~~sentencing is suspended for any person convicted under this~~  
10 ~~subdivision, it shall be a condition of probation that the person~~  
11 ~~participate in counseling, as designated by the court, unless the~~  
12 ~~court finds good cause not to impose this requirement. The court~~  
13 ~~shall require the person to pay for this counseling, if ordered, unless~~  
14 ~~good cause not to pay is shown.~~

15 ~~(y) Except as permitted by federal law, intentionally avoiding~~  
16 ~~submission to the screening and inspection of one's person and~~  
17 ~~accessible property in accordance with the procedures being applied~~  
18 ~~to control access when entering or reentering a courthouse or a~~  
19 ~~city, county, city and county, or state building if entrances to the~~  
20 ~~courthouse or the city, county, city and county, or state building~~  
21 ~~have been posted with a statement providing reasonable notice~~  
22 ~~that prosecution may result from a trespass described in this~~  
23 ~~subdivision.~~

24  
25  
26 **All matter omitted in this version of the bill**  
27 **appears in the bill as introduced in the**  
28 **Senate, February 24, 2009 (JR11)**  
29